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Liquor Laws and Regulations for Retail Dealers

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ORIGINAL

Department of the Treasury

Bureau of Alcohol Tobacco and Firearms

ATF P 5170.2 (3/84)

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Foreword

To All Retail Dealers of Distilled Spirits, Wine, or Beer:

This booklet will explain for you, briefly and in nontechnical language, the principal Federal liquor laws and regulations which affect you. Its purpose is to help you conduct your business in compliance with the law and regulations.

You should read the entire booklet when you first receive it; then retain it for future reference. Later, when you have a particular question, you may find the answer by using the table of contents.

If you need more specific or detailed information, you may obtain copies of the complete regulations, Title 27 CFR (which includes Part 194, Liquor Dealers) by purchasing them from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. These publications are also available for purchase at Government book stores in most major cities.

You should also feel free to contact the office of the regional director (compliance), Bureau of Alcohol, Tobacco and Firearms for your region about any of the requirements that may not be clear to you. For your convenience, the mailing addresses of the regional directors (compliance) are listed on the final page of this booklet.

Director,
Bureau of Alcohol,
Tobacco and Firearms

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1. General

Retail dealers of distilled spirits, wine, or beer must comply with certain requirements of Federal laws and regulations. Failure to comply with these requirements carries severe penalties and renders the dealer liable to criminal prosecution. This pamphlet summarizes the more important provisions of Federal laws and regulations applicable to retail dealers.

2. Tax on retail dealers (other than "limited" retail dealers)

The law defines a retail dealer as a person who sells to any person other than a dealer. Every retail dealer is required to pay special occupational tax and obtain a special tax stamp before commencing business, and (except in the case of "limited" dealers) on or before each July 1 thereafter if he continues in business. A retail dealer who handles distilled spirits or wine, or any combination of distilled spirits, wine and malt beverages must pay special tax at the rate of $54 a year. A retail dealer who handles only beer must pay special tax at the rate of $24 a year. When the tax is paid in full, the dealer will be issued a special tax stamp for the class of business for which tax is paid. The special tax stamp is issued to cover only one place of business; if a retail dealer conducts business at more than one location he must pay special tax and obtain a special tax stamp for each location. Persons who engage in the sale of distilled

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spirits, wine, or beer and willfully fail to pay the tax render themselves liable to a fine of not more than $5,000, or imprisonment for not more than 2 years, or both.

3. Tax on limited retail dealers

Certain retail dealers are classed as limited retail dealers, and have the privilege of paying special tax at a special monthly rate, rather than on a yearly basis. Among such dealers are fraternal, civic, and similar type organizations which sell beer or wine, or both, at entertainments, dances, picnics, bazaars, or festivals held by them. Also classed as limited retail dealers are persons who sell beer or wine, or both, to members, guests or patrons of fairs, reunions, picnics, carnivals, or similar outings. However, no organization or person can be considered as a limited dealer if otherwise engaged in the retail sale of distilled spirits, wine, or beer. Limited retail dealers of wine, beer and distilled spirits pay special tax at the rate of $4.50 per calendar month. Whereas, limited retail dealers of wine only, beer only, or beer and wine pay $2.20 per calendar month. The tax must be paid before any beer or wine is offered for sale. The special tax stamp issued to a limited dealer covers only one location, and expires at the end of the calendar month in which issued. A limited dealer operates under the same laws which govern retail dealers of distilled spirits, wine, or beer, and is subject to the same penalties for violation thereof.

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4. Stamp not a license

The special tax stamp is a receipt for payment of the special occupational tax as a dealer. It is not a "Federal License" and does not confer any privileges on the dealer.

5. Time for payment of special tax

Every retail dealer is required to file a special tax return (IRS Form 11) with, and pay the proper special tax to, the director of an internal revenue service center. The Form 11 must be filed, with remittance, before the dealer commences business, and on or before each July 1 thereafter if he continues in business. Dealers must file their tax returns and pay the special tax on time in order to avoid paying interest and delinquency penalties for late filings or payment.

6. Retail dealers conducting business at more than one location

Every retail dealer who conducts business at more than one location subject to special tax (retail dealer in liquor or retail dealer in beer) for the same period is required to (1) file only one special tax return (Form 11), with remittance, to cover all such locations, with the director of the internal revenue service center serving the internal revenue district in which the dealer's principal place of business (or principal office, if the dealer is a corporation) is

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located; and (2) prepare, in duplicate, a list showing, by States, the name and address of each location for which special tax is being paid. The original of the list must be attached to the Form 11 and the copy retained by the dealer.

7. Employer identification number

Every retail dealer is required to show his employer identification number on the special tax return (Form 11). If a dealer does not have an employer identification number, he should file an application on Form SS-4 for this number. Form SS-4 may be obtained from the director of the service center or any district director, and should be filed with the official designated on the form on or before the seventh day after the date on which the dealer files his first tax return.

8. Computation of tax

Special tax is computed on the basis of a tax year which begins on July 1 and ends on the following June 30. A retail dealer who commences business at any time in July is required to pay special tax for the entire tax year. A dealer in business on June 30 who continues operations into the month of July is required to pay special tax for the new tax year which begins July 1. A dealer who begins business in any month other than July is required to pay special tax from the first of the month in which he begins business to the following June 30. For example, a

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dealer who commences business on August 20 is required to pay for 11 full months (August 1 through June 30 following), or eleven-twelfths of the annual rate.

9. Special tax stamp to be kept available for examination

Every retail dealer is required to keep his special tax stamp and receipt for payment of Federal tax available in his place of business for inspection by an alcohol, tobacco and firearms officer.

10. Change in location of business

(a) **General.**—Every retail dealer who moves his place of business to a location other than that indicated on his special tax stamp must register such change of address with the director of the service center who issued the stamp within 30 days from the date he begins to sell (or offer for sale) liquors at the new location. The change in location must be registered by completing a new Form 11 (marked "Amended Return") and surrendering the special tax stamp for endorsement. Failure to register the change of location within 30 days will subject the dealer to a new tax at the new location.

(b) **Retail dealers conducting business from one location.**—Every retail dealer who conducts business from only one location and moves such place of business must indicate on his

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amended return the new address of his business and the date he commenced business at the new location. The amended return, together with the special tax stamp, must be forwarded or delivered to an internal revenue office, or be given to an alcohol, tobacco and firearms officer inspecting the business. The stamp will be amended and returned to the dealer at his new address.

(c) **Retail dealers conducting business from more than one location.**—Every retail dealer who conducts business from more than one location subject to special tax and who moves one of his businesses to a new location must indicate on his amended return the name and address of his principal place of business (or principal office, if the dealer is a corporation) and the date he commenced business at the new location. In addition, he must indicate on an attachment to the amended return the name and both the old and new addresses of the business moved to the new location. The amended return and attachment, together with the special tax stamp, must be submitted to the director of the service center who issued the stamp. The stamp will be amended and returned to the taxpayer.

11. Change in ownership or control of business

(a) **Change in control.**—Certain persons other than the dealer who paid the special tax may, without paying additional special tax, secure the right

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to carry on the same business at the same address for the remainder of the taxable period for which the special tax was paid. These persons are—

(i) The widow (or widower) or child, or executor, administrator, or other legal representative of a deceased dealer;

(ii) A husband or wife succeeding to the business of his or her living spouse;

(iii) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors; and

(iv) The partner or partners remaining after death or withdrawal of a member of a partnership.

In order to secure this right, the person or persons continuing the business must register the change in control with the director of the service center who issued the special tax stamp within 30 days from the date on which he or they begin to carry on the business. The registration must be made by completing a new Form 11 (marked "Amended Return") showing the basis of the succession, and submitting the amended return and the stamp to the appropriate official as set forth in paragraph 10. The stamp will be amended and returned. Failure to register the succession within 30 days will subject the successor to a new tax and interest and possible penalty for the taxable period in which he began to carry on the business.

(b) **Change in ownership.**—A special tax stamp cannot be sold by the original purchaser, and, except as shown in paragraph (a) above, cannot be transferred. A new stamp must be secured by the new owner when the

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business is sold, or by the partnership when a new partner is taken into the business.

12. Requirements on retail dealers who sell to other dealers

(a) **Tax liability as wholesale dealer.**—A retail dealer becomes a wholesale dealer when he sells distilled spirits, wine, or beer to another dealer. The tax on a wholesale dealer in beer (a dealer who sells only beer to trade buyers) is $123 for the tax year; the tax on a wholesale dealer in liquors (a dealer who sells either wine or distilled spirits to trade buyers) is $255 for the tax year. A retail dealer does not incur liability as a wholesale dealer for sales of wine or beer to a limited retail dealer, provided all such sales are made at the retail dealer's place of business covered by his special tax stamp. Persons who incur liability as wholesale dealers in beer, or wholesale dealers in liquors, and who willfully fail to pay the tax as such render themselves liable to a fine of not more than $5,000, or imprisonment for not more than 2 years or both.

(b) **Permit requirements.**—A retail dealer may not sell any distilled spirits, wine, or beer to another dealer for purposes of resale until he has obtained a wholesaler's basic permit under the Federal Alcohol Administration Act. Persons who violate any of the permit requirements of the Act become liable to penalties. Forms on which to apply for permits may be obtained from the

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regional director (compliance), Bureau of Alcohol, Tobacco and Firearms for the region in which the dealer intends to conduct business.

13. Sales in quantities of 20 wine gallons

Under law, a retail dealer who sells or offers for sale distilled spirits, wine, or beer in quantities of 20 wine gallons (75.7 liters) or more to the same person at the same time is presumed to be engaged in business as a wholesale dealer. The seller may overcome this presumption only by furnishing satisfactory evidence that the sale was made to a person who is not a dealer.

14. Liability to additional taxes for "peddling"

A retail dealer may sell liquors only at the place of business covered by his special tax stamp. If he sells at any other place, or if he delivers liquors for which he has not received a prior order at the place of business covered by his special tax stamp, he is required to pay special tax as a dealer at each place where he makes a sale or delivery.

15. Tax not refundable

A retail dealer who discontinues business during the tax year is not entitled to refund of tax for the unexpired portion of the tax year for which the special tax stamp was issued. How-

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ever, the full amount of tax may be refunded if the dealer did not sell (or offer for sale) any liquors during the period covered by the stamp.

16. Stamps on bottles of distilled spirits

Distilled spirits in the possession of a retail liquor dealer must be in bottles or similar containers bearing internal revenue strip stamps or alternative devices. This applies to whiskey, gin, rum, brandy, vodka, alcohol, cordials containing distilled spirits, and other similar liquors. A portion of the strip stamp or alternative device must be kept affixed to each opened bottle. Liquors not in compliance with these requirements are subject to seizure and forfeiture, and any retail dealer having these liquors in his possession is subject to a fine of not more than $10,000, or imprisonment for not more than 5 years, or both.

17. Mutilated or missing strip stamps or alternative devices

Any dealer who has in his possesion an unopened bottle of distilled spirits from which the strip stamp or alternative device is missing, or on which either is mutilated to the extent that (a) its genuineness cannot be determined or (b) the contents of the container are accessible without breaking it, may procure a replacement strip stamp by filing an application therefore with the regional director (compliance), Bureau of Alcohol, Tobacco and Firearms.

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18. Possession of unattached strip stamps

Any retail dealer having unattached ATF strip stamps in his possession, except under express authority from the regional director (compliance), Bureau of Alcohol, Tobacco and Firearms, is subject to a fine of not more than $10,000, or imprisonment for not more than 5 years, or both.

19. Refilling, reuse, and disposition of liquor bottles

(a) **Refilling or reusing liquor bottles.**—Any retail dealer, or agent or employee of such dealer, who refills any liquor bottle with distilled spirits, or who reuses any liquor bottle by adding distilled spirits or any substance (including water) to the original contents is subject to a fine of not more than $1,000, or imprisonment for not more than 1 year, or both.

(b) **Disposition of liquor bottles.**—The possession of used liquor bottles by any person other than the retail dealer, or agent or employee of such dealer, who empties the contents thereof is prohibited, except that this prohibition shall not (1) prevent the owner or occupant of any premises on which such bottles have been lawfully emptied from assembling the same on such premises (i) for delivery to a bottler or importer on specific request for such bottler or importer; (ii) for destruction, either on the premises on which the bottles are emptied or elsewhere,

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including disposition for purposes which will result in the bottles being rendered unusable as bottles; or (iii) in the case of unusual or distinctive bottles, for disposition as collectors' items or for other purposes not involving the packaging of any products for sale; (2) prevent any person from possessing, offering for sale, or selling such unusual or distinctive bottles for purposes not involving the packaging of any product for sale; or (3) prevent any person from assembling used liquor bottles for the purpose of recycling or reclaiming the glass or other approved liquor bottle material. Any person possessing liquor bottles in violation of law or regulations is subject to a fine of not more than $1,000, or imprisonment for not more than 1 year, or both.

20. Prohibited purchases of distilled spirits

Retail dealers may purchase distilled spirits only from wholesale dealers who have paid the special tax as such or who are not required to pay special tax as wholesale dealers. Examples of those not required to pay this tax are: (a) proprietors of distilled spirits plants, (b) administrators, executors, or receivers in bankruptcy who are disposing of assets, and (c) dealers who are going out of business and selling their entire stock. A dealer who makes prohibited purchases of distilled spirits subjects himself to a fine of not more than $1,000, or imprisonment for not more than 1 year, or both.

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21. Required records

Every retail dealer must keep a record in book form showing all distilled spirits, wine, and beer received on his premises, the quantities thereof, and from whom and the dates received, or he must keep all invoices of, and bills for, all distilled spirits, wine, and beer received. Also every retail dealer is required to keep a record of sales of distilled spirits, wine, and beer in quantities of 20 wine gallons or more to the same person at the same time, which shows (a) the date of sale, (b) name and address of the purchaser, (c) kind and quantity of liquors sold, and (d) the serial numbers of any full cases of distilled spirits in the sale. A dealer who, with fraudulent intent, fails or refuses to keep the required records is subject to a fine of not more than $10,000 and imprisonment for not more than 5 years, and a dealer who, without fraudulent intent, fails or refuses to keep the required records is subject to a fine of not more than $1,000, or imprisonment for not more than 1 year, or both.

22. Inspection by Alcohol, Tobacco and Firearms Officers

A retail dealer's place of business and his stock of liquors are subject to inspection by Alcohol, Tobacco and Firearms officers having proper credentials. The ATF officers are authorized to collect special tax and penalties, and to accept tender of offers in compromise of liability arising from a

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violation of Federal liquor laws. The ATF officer will issue a receipt to a dealer if cash is received as a remittance in payment of special tax (including penalties and interest, if any), or for any type of remittance received if the dealer requests a receipt. If any retail dealer forcibly rescues any liquor or other property seized by an ATF officer, or forcibly obstructs or hinders an ATF officer in the performance of his duties, or attempts to do so, he is subject to a fine of not more than $500 or double the value of the property rescued, whichever is greater, or imprisonment for not more than 2 years.

23. Obtaining Form 11, Special Tax Return

IRS Forms 11 may be obtained from any Internal Revenue Service office in your locality or from the ATF regional offices listed on the following page.

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REGION	
Midwest	Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin
	Indiana, Kentucky, Michigan, Ohio, West Virginia
North-Atlantic	Connecticut, Maine, Massachusetts, New Hampshire, New York, Puerto Rico, Rhode Island, Vermont, Virgin Islands
	Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia
Southeast	Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee
Southwest	Arkansas, Colorado, Louisiana, New Mexico, Oklahoma, Texas, Wyoming
Western	Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington

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OFFICE ADDRESS

Regional Director
(Compliance)
Bureau of Alcohol
Tobacco and Firearms

230 South Dearborn Street
Chicago, Illinois 60604

Federal Office Building
550 Main Street
Cincinnati, Ohio 45202

Regional Director
(Compliance)
Bureau of Alcohol
Tobacco and Firearms

6 World Trade Center
6th Floor
New York, NY 10008

Federal Bldg. US Post
Office
Sixth Floor
Ninth and Market Streets
Philadelphia, Pennsylvania
19107

Regional Director
(Compliance)
Bureau of Alcohol
Tobacco and Firearms

P.O. Box 2994
Atlanta, Georgia 30370
(3835 Northeast
Expressway)

Regional Director
(Compliance)
Bureau of Alcohol
Tobacco and Firearms

1114 Commerce Street,
Rm. 701
Dallas, Texas 75242

Regional Director
(Compliance)
Bureau of Alcohol
Tobacco and Firearms

525 Market Street
34th Floor
San Francisco, CA 94105

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